

**Title: Legitimate Peer Review**

**Author: Gideon Lowe, MD, Delegate**

**Introduced by: Gideon Lowe, MD, Delegate**

WHEREAS, the Tenet Hospital Corporation, at Hollywood Presbyterian Hospital in Los Angeles, has employed a new, malicious, and coercive method for squelching physician dissent and controlling its medical staff, and

WHEREAS, that method comprises, first, co-opting the Medical Executive Committee by having the hospital Board of Governors replace any and all members (even though duly elected) who are not cooperative with hospital financial goals, by substituting doctors that are beholden to the hospital (such as employees, parties to managed care contracts, and others with financial ties), and

WHEREAS, the administration, following this new method, then targets a dissenting physician, gathers a group of his charts from legitimate peer-review records, and sends them out to a so-called peer-review company (such as Steven Hirsch and Associates in Orange County or Mercer Human Resource Consulting in San Francisco which themselves have professional and organizational ties to Tenet) obtaining, for a price, a scurrilously damning report of the physician, and

WHEREAS, the reports are then shepherded by administration through an "ad hoc committee" in the doctor's specialty, consisting of one to three doctors who are administration friendly, putting a stamp of approval on the outside reports, and

WHEREAS, the President of the medical staff, at the behest of the administration, then summarily suspends the physician stating that he presents an "imminent danger" to patients, notifies the physician he has

been suspended, and informs him that he may come before the MEC but stresses that this is not a "hearing," and

WHEREAS, when the physician appears before the MEC, he does so without having been permitted to review, or even see, the outside reports, and

WHEREAS, at the MEC meeting, the members are asked, based solely on the outside reports, to condemn the physician, and under the watchful eye of the hospital administrator who now controls each Committee member's financial fate, a vote is taken which almost always unanimously condemns the physician, and

WHEREAS, then the administration, through the MEC, citing applicable California Business and Professions Code sections that state that, after 15 days on suspension, a doctor must be reported to the licensing agency, submits the physician's name to the National Practitioner Data Bank (NPDB) and, via an 805 report, to the Medical Board of California (MBC), and

WHEREAS, the physician is then apprised of his right to appear before a Judicial Review Committee (JRC), and

WHEREAS, the JRC is designed to weaken the physician financially and psychologically with \$100,000-plus legal fees being standard, with the Hearing Officer being appointed and paid by the administration, and

WHEREAS, no matter what the JRC panel decides, the hospital Board of Governors has the last say, virtually always upholding the summary suspension, and

WHEREAS, the physician must also look forward to defending himself before the MBC at a cost of \$50,000-plus, and

WHEREAS, about a half dozen physicians have been treated this way; several other physicians associated with them have resigned to avoid a similar fate; still other physicians are leery of admitting patients out of fear; and the entire medical staff is broken in spirit and subdued except for those with special financial arrangements; now therefore be it

**RESOLVED**, that the CMA affirm that those physicians and others that participate in medical-staff peer review or appellate peer review (such as the Judicial Review Committee proceedings) must have no conflicts of interest; and further be it

**RESOLVED**, that the CMA affirm that the appellate review, and any other administrative remedies, must be done by physicians and others (e.g., the Hearing Officer of the JRC) who are not paid for by the reviewing entity; and further be it

**RESOLVED**, that the CMA affirm that peer review must be done only by physicians who are in the same hospital, or, if not possible, in the same county as the physician being reviewed; or, if not possible, by a blue-ribbon reviewing committee appointed by the CMA Board of Trustees; and further be it

**RESOLVED**, that the CMA support these recommendations for incorporation into the Business and Professions Code, into the Health and Safety Code, and into recently enacted statutes.